



Deeds Excise DOR Directive 95-4

GOVERNMENT DOCUMENTS
COLLECTION

Massachusetts
Department of
Revenue

JUL 25 1995

Enforcement of the Deeds Excise

Issue:

How does the Department of Revenue enforce the deeds excise?

Directive:

If the Department determines that the full amount of deeds excise has not been paid, a Notice of Intention to Assess will be sent to the person to be assessed. That person (or the person's representative) may request a conference concerning the proposed assessment within thirty days. After thirty days (and following consideration of any relevant evidence timely presented by the taxpayer), the deeds excise will be assessed and collected by the Department in the same manner as other taxes. If the person assessed continues to disagree that the excise is due, that person may file an application for abatement on Form CA-6.

Discussion of Law:

G.L. c. 64D, § 1, provides that there shall be levied, collected and paid an excise upon a "deed, instrument, or writing, whereby any lands, tenements or other realty sold shall be granted, assigned, transferred or otherwise conveyed to, or vested in, the purchaser or purchasers ... when the consideration of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds one hundred dollars. The rate of the excise (except for Barnstable county) is \$2.28 per \$500.00 of consideration (or fraction thereof) in excess of \$100.00.¹ The deeds excise is self-assessed and paid by the person who makes or signs the deed, instrument or writing by affixing adhesive stamps to the document in the proper amount. G.L. c. 64D, § 2. The adhesive stamps are prepared by the Department and sold through the registries of deeds. G.L. c. 64D, § 3.

The Commissioner of Revenue is charged with administering and enforcing the deeds excise. G.L. c. 64D, § 6. In connection with any conveyance or transfer subject to the deeds excise, he may investigate and ascertain whether the proper excise was paid.

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For this purpose, any relevant books, papers, records or memoranda must be produced upon request. Failure of any party to permit such inspection, or failure to preserve such records for two years from the date of the transaction, or making false entries in such records shall be punished by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment for not less than three months nor more than two years, or both. *Id.* In addition, any person who signs and delivers to a purchaser any deed, instrument or writing which does not have the required deeds excise stamps affixed shall be subject to a penalty not exceeding one hundred dollars. G.L. c. 64D, § 6A. Also see penalties for false affixation of deeds excise stamps, illegal removal of stamps, and fraudulent use of stamps provided by G.L. c. 64D, §§ 7, 8, and 9.

The tax administration provisions of General Laws Chapter 62C apply to taxes imposed under Chapter 64D, the deeds excise. G.L. c. 62C, § 2. If the Commissioner determines that the full amount of any tax has not been assessed or deemed to be assessed, that tax may be assessed with interest, first giving notice of intention to the person being assessed. G.L. c. 62C, § 26. Penalties for late payment of tax and failure to pay following assessment may also be assessed. See G.L. c. 62C, §§ 33(b) and 33(c). Any person aggrieved by an assessment of the deeds excise may file an application for abatement within three years from the date of the deed, instrument or writing, two years from the date the tax was assessed or deemed to be assessed, or one year from the date of payment, whichever is later. See G.L. c. 62C, § 37.

Mitchell Adams
Commissioner of Revenue
May 9, 1995

1. The rate established by G.L. c. 64D, § 1, was increased by a 14% surcharge imposed by St. 1969, c. 546, § 23. The rate in Barnstable County (including the surcharge) is \$1.71 per \$500.00 of consideration (or fraction thereof) in excess of \$100.00.